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SENATE BILL 5760

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Poulsen, Fraser, Rockefeller, Spanel, Jacobsen, Pflug, Kline, Parlette, Oemig, Rasmussen, Shin and Kohl-Welles

Read first time 01/31/2007. Referred to Committee on Water, Energy & Telecommunications.

1            AN ACT Relating to the energy freedom program, including activities  
2 to promote green highways; amending RCW 15.110.005, 15.110.010,  
3 15.110.020, 15.110.040, 15.110.060, 47.17.020, 47.17.135, and  
4 47.17.140; adding new sections to chapter 15.110 RCW; creating a new  
5 section; and providing an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            **Sec. 1.** RCW 15.110.005 and 2006 c 171 s 1 are each amended to read  
8 as follows:

9            The legislature finds that:

10            (1) Washington's dependence on energy supplied from outside the  
11 state and volatile global energy markets makes its economy and citizens  
12 vulnerable to unpredictable and high energy prices;

13            (2) Washington's dependence on petroleum-based fuels increases  
14 energy costs for citizens and businesses;

15            (3) Diesel soot from diesel engines ranks as the highest toxic air  
16 pollutant in Washington, leading to hundreds of premature deaths and  
17 increasing rates of asthma and other lung diseases;

18            (4) The use of biodiesel results in significantly less air  
19 pollution than traditional diesel fuels;

1 (5) Improper disposal and treatment of organic waste from farms and  
2 livestock operations can have a significant negative impact on water  
3 quality;

4 (6) Landfill gas, if vented into the atmosphere, poses a great risk  
5 to Washington's climate;

6 (7) Washington has abundant supplies of landfill methane gas and  
7 organic wastes from farms ((that)), which can be used for energy  
8 production, and abundant farmland where crops could be grown to  
9 supplement or supplant petroleum-based fuels;

10 ((+7)) (8) The use of energy and fuel derived from these sources  
11 can help citizens and businesses conserve energy and reduce the use of  
12 petroleum-based fuels, would improve air and water quality in  
13 Washington, reduce environmental risks from landfills and farm wastes,  
14 create new markets for farm products, and provide new industries and  
15 jobs for Washington citizens;

16 ((+8)) (9) The bioenergy industry is a new and developing industry  
17 that is, in part, limited by the availability of capital for the  
18 construction of facilities for converting farm and forest products into  
19 energy and fuels and the availability of infrastructure necessary to  
20 allow motorists in Washington to refuel their alternative fuel vehicles  
21 while traveling along major state highways;

22 ((+9)) (10) The 2010 Olympic and Paralympic Winter Games present  
23 an opportunity to further Washington's energy independence by working  
24 with Vancouver, British Columbia, Oregon, and California to develop a  
25 hydrogen highway to showcase sustainable transportation and alternative  
26 fuels, and to accelerate the commercialization of hydrogen and fuel  
27 cell technologies;

28 (11) Instead of leaving our economy at the mercy of global events,  
29 and the policies of foreign nations, Washington state should adopt a  
30 policy of energy independence; and

31 ((+10)) (12) The energy freedom program is meant to lead  
32 Washington state towards energy independence.

33 Therefore, the legislature finds that it is in the public interest  
34 to encourage the rapid adoption and use of bioenergy, to develop a  
35 viable bioenergy industry within Washington state, to promote public  
36 research and development in bioenergy sources and markets, ((and)) to  
37 support a viable agriculture industry to grow bioenergy crops, and to  
38 develop infrastructure for the use of alternative fuels and biofuels by

1 the motorists of Washington state. To accomplish this, the energy  
2 freedom program is established to promote public research and  
3 development in bioenergy, (~~and~~) to stimulate the construction of  
4 facilities in Washington to generate energy from farm sources or  
5 convert organic matter into fuels, and to develop refueling  
6 infrastructure in Washington state to ensure that alternative fuels and  
7 biofuels are readily accessible to the motorists of Washington state.

8 **Sec. 2.** RCW 15.110.010 and 2006 c 171 s 2 are each amended to read  
9 as follows:

10 The definitions in this section apply throughout this chapter  
11 unless the context clearly requires otherwise.

12 (1) "Alternative fuel" means electricity, hydrogen, or liquid  
13 natural gas produced from landfill methane gas.

14 (2) "Applicant" means any political subdivision of the state,  
15 including port districts, counties, cities, towns, special purpose  
16 districts, and other municipal corporations or quasi-municipal  
17 corporations. "Applicant" may also include federally recognized tribes  
18 and state institutions of higher education with appropriate research  
19 capabilities.

20 (~~(+2)~~) (3) "Assistance" includes loans, leases, product purchases,  
21 or other forms of financial or technical assistance.

22 (~~(+3)~~) (4) "Department" means the department of agriculture.

23 (~~(+4)~~) (5) "Director" means the director of the department of  
24 agriculture.

25 (~~(+5)~~) (6) "Green highway zone" means an area in the state  
26 designated by the department that is within reasonable proximity of  
27 state route number 5, state route number 90, and state route number 82.

28 (7) "Peer review committee" means a board, appointed by the  
29 director, that includes bioenergy specialists, energy conservation  
30 specialists, scientists, and individuals with specific recognized  
31 expertise.

32 (~~(+6)~~) (8) "Project" means the construction of facilities,  
33 including the purchase of equipment, to convert landfill methane gas or  
34 farm products or wastes into electricity or gaseous or liquid fuels or  
35 other coproducts associated with such conversion. These specifically  
36 include fixed or mobile facilities to generate electricity or methane  
37 from the anaerobic digestion of organic matter, and fixed or mobile

1 facilities for extracting oils from canola, rape, mustard, and other  
2 oilseeds. "Project" may also include the construction of facilities  
3 associated with such conversion for the distribution and storage of  
4 such feedstocks and fuels.

5 ~~((7))~~ (9) "Refueling project" means the construction of new  
6 alternative fuel refueling facilities, as well as upgrades and  
7 expansion of existing refueling facilities, that will enable these  
8 facilities to offer alternative fuels to the motoring public.

9 (10) "Research and development project" means research and  
10 development, by an institution of higher education as defined in  
11 subsection ~~((1))~~ (2) of this section, relating to:

12 (a) Bioenergy sources including but not limited to biomass and  
13 associated gases; or

14 (b) The development of markets for bioenergy coproducts.

15 **Sec. 3.** RCW 15.110.020 and 2006 c 171 s 3 are each amended to read  
16 as follows:

17 (1) The energy freedom program is established within the  
18 department. The director may establish policies and procedures  
19 necessary for processing, reviewing, and approving applications made  
20 under this chapter.

21 (2) When reviewing applications submitted under this program, the  
22 director shall consult with those agencies having expertise and  
23 knowledge to assess the technical and business feasibility of the  
24 project and probability of success. These agencies may include, but  
25 are not limited to, Washington State University, the University of  
26 Washington, the department of ecology, the department of community,  
27 trade, and economic development, and the Washington state conservation  
28 commission.

29 (3) Except as provided in subsection (4) of this section, the  
30 director, in cooperation with the department of community, trade, and  
31 economic development, may approve an application only if the director  
32 finds:

33 (a) The project will convert landfill methane gas or farm products  
34 or wastes directly into electricity or into gaseous or liquid fuels or  
35 other coproducts associated with such conversion;

36 (b) The project demonstrates technical feasibility and directly

1 assists in moving a commercially viable project into the marketplace  
2 for use by Washington state citizens;

3 (c) The facility will produce long-term economic benefits to the  
4 state, a region of the state, or a particular community in the state;

5 (d) The project does not require continuing state support;

6 (e) The assistance will result in new jobs, job retention, or  
7 higher incomes for citizens of the state;

8 (f) The state is provided an option under the assistance agreement  
9 to purchase a portion of the fuel or feedstock to be produced by the  
10 project, exercisable by the department of general administration;

11 (g) The project will increase energy independence or diversity for  
12 the state;

13 (h) The project will use landfill methane gas or feedstocks  
14 produced in the state, if feasible, except this criterion does not  
15 apply to the construction of facilities used to distribute and store  
16 fuels that are produced from landfill methane gas or farm products or  
17 wastes;

18 (i) Any product produced by the project will be suitable for its  
19 intended use, will meet accepted national or state standards, and will  
20 be stored and distributed in a safe and environmentally sound manner;

21 (j) The application provides for adequate reporting or disclosure  
22 of financial and employment data to the director, and permits the  
23 director to require an annual or other periodic audit of the project  
24 books; and

25 (k) For research and development projects, the application has been  
26 independently reviewed by a peer review committee as defined in RCW  
27 15.110.010 and the findings delivered to the director.

28 (4) When reviewing an application for a refueling project, the  
29 director may award a grant or a loan to an applicant if the director  
30 finds:

31 (a) The project will offer alternative fuels to the motoring  
32 public;

33 (b) The project does not require continued state support;

34 (c) The project is located within a green highway zone as defined  
35 in RCW 15.110.010;

36 (d) The project will contribute towards an efficient and adequately  
37 spaced alternative fuel refueling network along the green highways  
38 designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

1        (e) The project will result in increased access to alternative  
2 fueling infrastructure for the motoring public along the green highways  
3 designated in RCW 47.17.020, 47.17.135, and 47.17.140.

4        (5) The director may approve ((am)) a project application for  
5 assistance under subsection (3) of this section up to five million  
6 dollars. In no circumstances shall this assistance constitute more  
7 than fifty percent of the total project cost.

8        ((+5)) (6) The director may approve a refueling project  
9 application for a grant or a loan under subsection (4) of this section  
10 up to fifty thousand dollars. In no circumstances shall a grant or a  
11 loan award constitute more than fifty percent of the total project  
12 cost.

13        (7) The director shall enter into agreements with approved  
14 applicants to fix the terms and rates of the assistance to minimize the  
15 costs to the applicants, and to encourage establishment of a viable  
16 bioenergy industry. The agreement shall include provisions to protect  
17 the state's investment, including a requirement that a successful  
18 applicant enter into contracts with any partners that may be involved  
19 in the use of any assistance provided under this program, including  
20 services, facilities, infrastructure, or equipment. Contracts with any  
21 partners shall become part of the application record.

22        ((+6)) (8) The director may defer any payments for up to twenty-  
23 four months or until the project starts to receive revenue from  
24 operations, whichever is sooner.

25        **Sec. 4.** RCW 15.110.040 and 2006 c 171 s 5 are each amended to read  
26 as follows:

27        (1) If the total requested dollar amount of assistance awarded for  
28 projects under RCW 15.110.020(3) exceeds the amount available in the  
29 energy freedom account created in RCW 15.110.050, the applications must  
30 be prioritized based upon the following criteria:

31        ((+1)) (a) The extent to which the project will help reduce  
32 dependence on petroleum fuels and imported energy either directly or  
33 indirectly;

34        ((+2)) (b) The extent to which the project will reduce air and  
35 water pollution either directly or indirectly;

36        ((+3)) (c) The extent to which the project will establish a viable  
37 bioenergy production capacity in Washington;

1       (~~(4)~~) (d) The benefits to Washington's agricultural producers;  
2 and

3       (~~(5)~~) (e) The number and quality of jobs and economic benefits  
4 created by the project.

5       (2) This section does not apply to grants or loans awarded for  
6 refueling projects under RCW 15.110.020(4).

7       NEW SECTION. Sec. 5. A new section is added to chapter 15.110 RCW  
8 to read as follows:

9       (1) If the total requested dollar amount of funds for refueling  
10 projects under RCW 15.110.020(4) exceeds the amount available in the  
11 green energy incentive subaccount created in section 6 of this act, the  
12 applications must be prioritized based upon the following criteria:

13       (a) The extent to which the project will help reduce dependence on  
14 petroleum fuels and imported energy either directly or indirectly;

15       (b) The extent to which the project will reduce air and water  
16 pollution either directly or indirectly;

17       (c) The extent to which the project will establish a viable  
18 bioenergy production capacity in Washington;

19       (d) The extent to which the project will make biofuels more  
20 accessible to the motoring public;

21       (e) The benefits to Washington's agricultural producers; and

22       (f) The number and quality of jobs and economic benefits created by  
23 the project.

24       (2) This section does not apply to assistance awarded for projects  
25 under RCW 15.110.020(3).

26       NEW SECTION. Sec. 6. A new section is added to chapter 15.110 RCW  
27 to read as follows:

28       The green energy incentive subaccount is created as a subaccount of  
29 the energy freedom account. All receipts from appropriations made to  
30 the green energy incentive subaccount shall be deposited into the  
31 subaccount and shall be appropriated only for:

32       (1) Refueling projects awarded under this chapter;

33       (2) Pilot projects for plug-in hybrids;

34       (3) Programs to reduce truck stop idling;

35       (4) Demonstration projects developed with a science museum for the

1 purpose of bringing science education to children by way of a mobile  
2 learning vehicle; and

3 (5) Demonstration projects developed with the University of  
4 Washington that result in the design and building of a hydrogen vehicle  
5 fueling station.

6 NEW SECTION. **Sec. 7.** Moneys deposited in the green energy  
7 incentive subaccount created in section 6 of this act shall not exceed  
8 one million dollars.

9 **Sec. 8.** RCW 15.110.060 and 2006 c 171 s 7 are each amended to read  
10 as follows:

11 The director shall report to the legislature and governor on the  
12 status of the energy freedom program created under this chapter, on or  
13 before December 1, 2006, and annually thereafter. This report must  
14 include information on the projects that have been funded, the status  
15 of these projects, and their environmental, energy savings, and job  
16 creation benefits, as well as an assessment of the availability of  
17 alternative fuels in the state.

18 **Sec. 9.** RCW 47.17.020 and 1970 ex.s. c 51 s 5 are each amended to  
19 read as follows:

20 A state highway to be known as state route number 5, and designated  
21 as a Washington green highway, is established as follows:

22 Beginning at the Washington-Oregon boundary line on the interstate  
23 bridge over the Columbia river at Vancouver, thence northerly by way of  
24 Kelso, Chehalis, Centralia, Olympia, Tacoma, Seattle, Everett and Mt.  
25 Vernon, thence northwesterly to the east of Lake Samish, thence  
26 northeasterly and northerly by way of Bellingham to the international  
27 boundary line in the vicinity of Blaine in Whatcom county.

28 **Sec. 10.** RCW 47.17.135 and 1979 ex.s. c 33 s 3 are each amended to  
29 read as follows:

30 A state highway to be known as state route number 82, and  
31 designated as a Washington green highway, is established as follows:

32 Beginning at a junction with state route number 90 in the vicinity  
33 of Ellensburg, thence southerly and easterly by way of Yakima, Union  
34 Gap, Sunnyside, Prosser, Kiona, and Goose Gap west of Richland, thence

1 southeasterly near Kennewick and southwesterly by way of the vicinity  
2 of Plymouth to a crossing of the Columbia river at the Washington-  
3 Oregon boundary line.

4 **Sec. 11.** RCW 47.17.140 and 1991 c 56 s 2 are each amended to read  
5 as follows:

6 A state highway to be known as state route number 90, and  
7 designated as the American Veterans Memorial Highway as well as a  
8 Washington green highway, is established as follows:

9 Beginning at a junction with state route number 5, thence, via the  
10 west approach to the Lake Washington bridge in Seattle, in an easterly  
11 direction by way of Mercer Island, North Bend, Snoqualmie pass,  
12 Ellensburg, Vantage, Moses Lake, Ritzville, Sprague and Spokane to the  
13 Washington-Idaho boundary line.

14 NEW SECTION. **Sec. 12.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 13.** Sections 1 through 6 and 8 of this act  
19 expire June 30, 2016.

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